

106TH CONGRESS
2D SESSION

S. 3034

To amend title XVIII of the Social Security Act with respect to payments made under the prospective payment system for home health services furnished under the Medicare Program.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 12, 2000

Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act with respect to payments made under the prospective payment system for home health services furnished under the Medicare Program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Home Health Refine-
5 ment Amendments of 2000”.

1 **SEC. 2. ELIMINATION OF 15 PERCENT REDUCTION IN PAY-**
 2 **MENT RATES UNDER THE MEDICARE PRO-**
 3 **SPECTIVE PAYMENT SYSTEM FOR HOME**
 4 **HEALTH SERVICES.**

5 (a) IN GENERAL.—Section 1895(b)(3)(A) of the So-
 6 cial Security Act (42 U.S.C. 1395fff(b)(3)(A)), as amend-
 7 ed by sections 302(b) and 303(f) of the Medicare, Med-
 8 icaid, and SCHIP Balanced Budget Refinement Act of
 9 1999 (113 Stat. 1501A–359, 361), as enacted into law
 10 by section 1000(a)(6) of Public Law 106–113, is amended
 11 to read as follows:

12 “(A) INITIAL BASIS.—Under such system
 13 the Secretary shall provide for computation of
 14 a standard prospective payment amount (or
 15 amounts). Such amount (or amounts) shall ini-
 16 tially be based on the most current audited cost
 17 report data available to the Secretary and shall
 18 be computed in a manner so that the total
 19 amounts payable under the system for the 12-
 20 month period beginning on the date the Sec-
 21 retary implements the system shall be equal to
 22 the total amount that would have been made if
 23 the system had not been in effect and if section
 24 1861(v)(1)(L)(ix) had not been enacted. Each
 25 such amount shall be standardized in a manner
 26 that eliminates the effect of variations in rel-

ative case mix and area wage adjustments among different home health agencies in a budget neutral manner consistent with the case mix and wage level adjustments provided under paragraph (4)(A). Under the system, the Secretary may recognize regional differences or differences based upon whether or not the services or agency are in an urbanized area.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Public Law 106–113).

SEC. 3. ADDITIONAL PAYMENTS FOR OUTLIERS.

(a) IN GENERAL.—Section 1895(b)(5) of the Social Security Act (42 U.S.C. 1395fff(b)(5)) is amended—

(1) by striking “OUTLIERS.—The Secretary” and inserting the following (and conforming the indentation of the succeeding matter accordingly):

“OUTLIERS.—

“(A) IN GENERAL.—The Secretary”; and

(2) by adding at the end the following new subparagraph:

“(B) TEMPORARY ADDITIONAL PAYMENTS FOR OUTLIERS.—For the purposes described in the first sentence of subparagraph (A), there

1 are authorized to be appropriated from the
 2 trust funds (as defined in section 1896(a)(8))
 3 in appropriate part, as determined by the Sec-
 4 retary, for each of fiscal years 2001 through
 5 2005 an amount equal to \$500,000,000. Such
 6 amounts shall be in addition to amounts avail-
 7 able for payment under this section and shall
 8 not result in an reduction of the standard pro-
 9 spective payment amount (or amounts). In
 10 making payments under this subparagraph, the
 11 Secretary shall use a loss-sharing ratio of 90
 12 percent.”.

13 (b) CONFORMING AMENDMENT.—Section
 14 1895(b)(3)(C) of such Act (42 U.S.C. 1395fff(b)(3)(C))
 15 is amended by striking “paragraph (5)” and inserting
 16 “paragraph (5)(A)”.

17 **SEC. 4. ADDITIONAL PAYMENTS UNDER THE PROSPECTIVE**
 18 **PAYMENT SYSTEM FOR SERVICES FUR-**
 19 **NISHED IN RURAL AREAS AND SECURITY**
 20 **SERVICES.**

21 (a) INCREASE IN PAYMENT RATES FOR RURAL
 22 AGENCIES.—Section 1895(b) of the Social Security Act
 23 (42 U.S.C. 1395fff(b)) is amended by adding at the end
 24 the following new paragraph:

1 “(7) ADDITIONAL PAYMENT AMOUNT FOR
 2 SERVICES FURNISHED IN RURAL AREAS.—In the
 3 case of home health services furnished in a rural
 4 area (as defined in section 1886(d)(2)(D)), notwith-
 5 standing any other provision of this subsection, the
 6 amount of payment for such services is equal to 110
 7 percent of the payment amount otherwise made
 8 under this section (but for this paragraph) for serv-
 9 ices furnished in a rural area.”.

10 (b) ADDITIONAL PAYMENT FOR SECURITY SERV-
 11 ICES.—Section 1895(b) of such Act (42 U.S.C.
 12 1395fff(b)(3)), as amended by subsection (a), is further
 13 amended by adding at the end the following paragraph:

14 “(8) ADDITIONAL PAYMENT FOR SECURITY
 15 SERVICES.—The Secretary shall provide for an addi-
 16 tion or adjustment to the payment amount otherwise
 17 made under this section for the reasonable cost (as
 18 defined in section 1861(v)(1)(A)) of furnishing pro-
 19 tective services to individuals furnishing home health
 20 services under this title in areas where such individ-
 21 uals are at risk of physical harm, as determined by
 22 the Secretary.”.

23 (c) INAPPLICABILITY OF ADJUSTMENTS FOR BUDG-
 24 ET NEUTRALITY.—Section 1895(b)(3) of such Act (42

1 U.S.C. 1395fff(b)(3)) is amended by adding at the end
 2 the following new subparagraph:

3 “(D) NO ADJUSTMENT FOR ADDITIONAL
 4 PAYMENTS FOR RURAL SERVICES AND SECUR-
 5 RITY SERVICES.—The Secretary shall not re-
 6 duce the standard prospective payment amount
 7 (or amounts) under this paragraph applicable
 8 to home health services furnished during a pe-
 9 riod to offset the increase in payments resulting
 10 from the application of paragraph (7) (relating
 11 to services furnished in rural areas) and para-
 12 graph (8) (relating to costs of security serv-
 13 ices).”.

14 (d) EFFECTIVE DATE.—The amendments made by
 15 this section apply with respect to items and services fur-
 16 nished on or after October 1, 2000.

17 **SEC. 5. EXCLUSION OF NONROUTINE MEDICAL SUPPLIES**
 18 **UNDER THE PPS FOR HOME HEALTH SERV-**
 19 **ICES.**

20 (a) IN GENERAL.—Section 1895 of the Social Secu-
 21 rity Act (42 U.S.C. 1395fff) is amended by adding at the
 22 end the following new subsection:

23 “(e) EXCLUSION OF NONROUTINE MEDICAL SUP-
 24 PLIES.—

1 “(1) IN GENERAL.—Notwithstanding the pre-
 2 ceding provisions of this section, in the case of all
 3 nonroutine medical supplies (as defined by the Sec-
 4 retary) furnished by a home health agency during a
 5 year (beginning with 2001) for which payment is
 6 otherwise made on the basis of the prospective pay-
 7 ment amount under this section, payment under this
 8 section shall instead be based on the lesser of—

9 “(A) the actual charge for the nonroutine
 10 medical supply, or

11 “(B) the amount determined for such sup-
 12 ply under the applicable fee schedule under part
 13 B.

14 “(2) BUDGET NEUTRALITY ADJUSTMENT.—The
 15 Secretary shall provide for an appropriate propor-
 16 tional reduction in payments under this section so
 17 that beginning with fiscal year 2001, the aggregate
 18 amount of such reductions is equal to the aggregate
 19 increase in payments (as estimated by the Secretary)
 20 attributable to the exclusion effected under para-
 21 graph (1).”.

22 (b) CONFORMING AMENDMENTS.—(1) Section
 23 1895(b)(1) of the Social Security Act (42 U.S.C.
 24 1395fff(b)(1)) is amended by striking “The Secretary”
 25 and inserting “Subject to subsection (e), the Secretary”.

1 (2) Sections 1842(b)(6)(F) and 1862(a)(21) of the
 2 Social Security Act (42 U.S.C. 1395u(b)(6)(F);
 3 1395y(a)(21)) are each amended by striking “(including
 4 medical supplies described in section 1861(m)(5), but ex-
 5 cluding durable medical equipment to the extent provided
 6 for in such section)” and inserting “(other than medical
 7 supplies and durable medical equipment described in sec-
 8 tion 1861(m)(5))”.

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section apply with respect to items and services fur-
 11 nished on or after October 1, 2000.

12 **SEC. 6. RULE OF CONSTRUCTION RELATING TO**
 13 **TELEHOMEHEALTH SERVICES.**

14 (a) IN GENERAL.—Section 1895(b) of such Act (42
 15 U.S.C. 1395fff(b)(3)), as amended by section 3, is further
 16 amended by adding at the end the following paragraph:

17 “(9) RULE OF CONSTRUCTION RELATING TO
 18 TELEHOMEHEALTH SERVICES.—

19 “(A) IN GENERAL.—Nothing in this sec-
 20 tion, or in section 4206(a) of the Balanced
 21 Budget Act of 1997 (42 U.S.C. 1395l note),
 22 shall be construed as preventing a home health
 23 agency receiving payment under this section
 24 from furnishing a home health service via a
 25 telecommunications system. Each home health

1 agency that submits a cost report to the Sec-
2 retary under this section shall include, in such
3 cost report, data with respect to the costs in-
4 curred in furnishing home health services to
5 medicare beneficiaries via such telecommuni-
6 cations systems.

7 “(B) LIMITATION.—The Secretary shall
8 not consider a home health service provided in
9 the manner described in subparagraph (A) to
10 be a home health visit for purposes of—

11 “(i) determining the amount of pay-
12 ment to be made under this section; or

13 “(ii) any requirement relating to the
14 certification of a physician required under
15 section 1814(a)(2)(C).”.

16 (b) REPORT.—Not later than one year after the date
17 of the enactment of this Act, the Secretary of Health and
18 Human Services shall submit to Congress a report con-
19 taining the recommendations of the Secretary with respect
20 to the feasibility and advisability of including home health
21 services furnished by telecommunications systems as a
22 home health service for purposes of—

23 (1) payment for such services under section
24 1895 of the Social Security Act (42 U.S.C. 1395fff),
25 and

1 (2) requirements with respect to physician cer-
2 tification of the need for home health services under
3 section 1814(a)(2)(C) of such Act (42 U.S.C.
4 1395f(a)(2)(C)).

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